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In re Application of :
Pu-Sheng Cheng et al : DECISION ON PETITIONS
Application No. 10/626,369 : UNDER 37 CFR 1.78(a)(3)
Filed: July 23, 2003 :
Attorney Docket No. 88265-10365 :
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

It is unclear as to what prior-filed applications petitioner herein is seeking to claim priority. In this regard, the petition makes a reference to nonprovisional Application No. 09/453,932, filed May 16, 2000 and provisional Application No. 60/134,460 [sic, 60/134,640], filed May 17 [sic, May 18], 1999. However, the

amendment to the specification submitted with the instant petition only references PCT Application No. PCT/EP02/00770 and 09/768,784 (previously referred to as 09/768,764). If petitioner is seeking a claim for priority to Application Nos. 09/453,932 and 60/134,460 [sic, 60/134,640], an appropriate amendment should be submitted to include these applications. Petitioner is advised that the petition should be directed solely to the issues involved in this application to avoid confusion.

Accordingly, petitioner must clarify the record in a renewed petition as to what applications he is seeking to claim priority and, if appropriate, submit the appropriate amendment to the prior-filed applications.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.


Frances Hicks

Lead Petitions Examiner
Office of Petitions